

Patricia L. Glaser, State Bar No. 055668
 Clare Bronowski, State Bar No. 111106
 Elizabeth J. Giffin, State Bar No. 178343
 CHRISTENSEN, MILLER, FINK, JACOBS,
 GLASER, WEIL & SHAPIRO, LLP
 2121 Avenue of the Stars, 18th Floor
 Los Angeles, California 90067
 Telephone: (310) 553-3000
 Facsimile: (310) 556-2920

Attorneys for Petitioners

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

LA COSTA BEACH HOMEOWNERS'
 ASSOCIATION, a California Corporation,
 RICHARD ZIMAN, an individual, DAPHNA
 ZIMAN, an individual, ART ZOLOTH, an
 individual, HELEN ZOLOTH, an individual,
 FREDDIE FIELDS, an individual, CORINNA
 FIELDS, an individual, PEG YORKIN, an
 individual, BUDGE OFFER, an individual,
 JERRY MONKARSH, an individual,
 VIRGINIA MANCINI, an individual, RYAN
 O'NEAL, an individual, AARON SPELLING,
 an individual, CANDY SPELLING, an
 individual, NANCY HAYES, an individual,
 and LOU ADLER, an individual,

Petitioners,

v.

CALIFORNIA COASTAL COMMISSION, a
 California state agency, and DOES 1 through
 50, inclusive,

Respondents.

GAMMA FAMILY TRUST, BROAD
 REVOCABLE TRUST and NANCY M.
 DALY LIVING TRUST,

Real Parties-in-Interest.

Case No. BS063276

PETITIONERS' RESPONSE
 OPPOSING NOTICE OF RELATED
 CASE

[The Honorable David Yaffe presiding in
 Department 86]

Petition filed May 12, 2000

Hearing Date: May 10, 2001
 Time: 9:30 a.m.
 Dept.: 86

LAW OFFICES
 CHRISTENSEN, MILLER, FINK, JACOBS, GLASER, WEIL & SHAPIRO, LLP
 2121 AVENUE OF THE STARS
 EIGHTEENTH FLOOR
 LOS ANGELES, CALIFORNIA 90067
 (310) 553-3000

LAW OFFICES
CHRISTENSEN, MILLER, FINK, JACOBS, GLASER, WEIL & SHAPIRO, LLP
211 AVENUE OF THE STARS
EIGHTEENTH FLOOR
LOS ANGELES, CALIFORNIA 90007
(310) 593-3000

LA COSTA BEACH HOMEOWNERS' ASSOCIATION, a California Corporation,
RICHARD ZIMAN, an individual, DAPHNA ZIMAN, an individual, ART ZOLOTH, an individual, HELEN ZOLOTH, an individual, FREDDIE FIELDS, an individual, CORINNA FIELDS, an individual, PEG YORKIN, an individual, BUDGE OFFER, an individual, JERRY MONKARSH, an individual, VIRGINIA MANCINI, an individual, RYAN O'NEAL, an individual, AARON SPELLING, an individual, CANDY SPELLING, an individual, NANCY HAYES, an individual, and LOU ADLER, an individual,

Petitioners,

v.

CALIFORNIA STATE COASTAL CONSERVANCY, a California state agency, and DOES 1 through 50, inclusive,

Respondents.

GAMMA FAMILY TRUST, BROAD REVOCABLE TRUST and NANCY M. DALY LIVING TRUST,

Real Parties-in-Interest.

Case No. BS063275

[The Honorable Dzintra Janavs presiding in Department 85]

Petition filed May 12, 2000

Status Conference: May 3, 2001

Time: 9:30 a.m.

Dept: 85

To all parties and their attorneys of record:

Petitioners in *La Costa Beach Homeowners' Association, et al. v. California Coastal Commission*, pending in Los Angeles County Superior Court, Case No. BS 063276, filed on May 12, 2000, and Petitioners in *La Costa Beach Homeowners' Association, et al. v. California State Coastal Conservancy*, pending in Los Angeles County Superior Court, Case No. BS 063275, filed on May 12, 2000 were served with a Notice of Related Case on April 13, 2001, and make this response opposing the Notice of Related Case.

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I. SUMMARY OF FACTS

Real Parties-in-Interest the Gamma Family Trust, the Broad Revocable Trust and the Nancy M. Daly Living Trust ("Applicants") applied to the California Coastal Commission ("Commission") for amendments to three Coastal Development Permits to construct three large homes on the beach in Malibu.

On April 12, 2000, the Commission approved the amendments allowing Applicants to dedicate a lot located at 21704 Pacific Coast Highway (the "La Costa Lot") as off-site mitigation for the public view impacts of the Applicants' homes. The amendments required the La Costa Lot to be dedicated to the California Coastal Conservancy ("Conservancy") and restricted to public beach and view access only. On April 27, 2000, the Conservancy voted to accept the dedication of the La Costa Lot from Applicants.

On May 12, 2000, Petitioners, who live around or near the La Costa Lot, filed a writ of mandate petition challenging the Coastal Commission's approval of the amendments to Applicants' permits (*La Costa Beach Homeowners' Association, et al. v. California Coastal Commission, Los Angeles Superior Court Case No. BS 063276*) ("Commission Case"). The Commission Case was assigned to Department 86.

On the same day, Petitioners also filed a writ of mandate petition challenging the Conservancy's acceptance of the dedication of the La Costa Lot (*La Costa Beach Homeowners' Association, et al. v. California State Coastal Conservancy, Los Angeles Superior Court Case No. BS 063275*) ("Conservancy Case"). The Conservancy Case was assigned to Department 85.

In the Commission Case, the Administrative Record has been lodged with the Court, the case has been fully briefed, and a hearing on the merits has been held. The Court has reviewed the 56 volume, 3,677 page Administrative Record, and, on April 10, 2001, the Court heard this matter. The Court's tentative ruling was to grant Petitioner's request for a writ against the Commission. However, at the hearing, instead of issuing a final ruling, the Court continued the hearing to allow Respondent to attempt to relate the two cases. Respondent filed a Notice of Related Case on April 13, 2001.

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1 In the Conservancy Case, the Administrative Record has not been finalized, nor lodged with
2 the Court, and the case has not been briefed. On October 5, 2001, the Court held a hearing on the
3 Conservancy's Motion to Strike and Demurrer and held a Status Conference at which the Court was
4 advised of the pendency of the Commission Case. The Court continued the Status Conference until
5 the Court in Department 86 has ruled upon the Commission Case.

6
7 **II. THEY SHOULD NOT RELATE THE COMMISSION CASE AND THE**
8 **CONSERVANCY CASE BECAUSE THE NOTICE OF RELATED CASE IS UNTIMELY**

9 Los Angeles Superior Court Rule 7.3(f)(2)(a) specifies that a Notice of Related Case "must
10 be filed not later than 15 days after assignment of a case or not later than 15 days after such facts
11 become known to counsel." The Commission and the Conservancy Cases were filed on May 12,
12 2000 – almost a year ago. Therefore, the "15 days after assignment of a case" deadline has clearly
13 passed.

14 The Attorney General is representing both the Commission and the Conservancy in the two
15 cases. Even assuming that the two Deputy Attorney Generals handling the cases were not aware of
16 the filing of the other cases, the deadline outlined in Rule 7.3(f)(2)(a) has already passed. On
17 October 5, 2001, the Deputy Attorney General working on the Conservancy Case attended a Status
18 Conference at which the Commission Case was discussed. The Court indicated at the Status
19 Conference that the Conservancy Case would be continued until the Commission Case was resolved.
20 Thus, the Attorney General's office had 15 days from that date, "when facts became known to
21 counsel," to file the Notice of Related Case.

22 Similarly, in the Commission Case, on February 20, 2001, Petitioners' Opening Brief was
23 served on the Deputy Attorney General acting as the Commission's counsel. On page six, footnote
24 five, of Petitioners' Opening Brief, Petitioners notified the Court and the parties of the pending
25 Conservancy Case. Thus, even if the Commission's counsel had not been previously aware of the
26 Conservancy Case, counsel was provided notice of the Conservancy Case on February 20, 2001.
27 The fifteen day period in which Respondent could have filed the Notice of Related Case has expired.

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1 II. IF THE COMMISSION AND THE CONSERVANCY CASES ARE RELATED, GOOD
2 CAUSE AND JUDICIAL ECONOMY DICTATE THAT THE CASES SHOULD BE
3 ASSIGNED TO DEPARTMENT 86

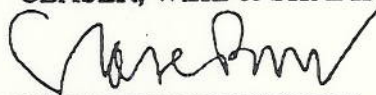
4 Los Angeles Superior Court Rule 7.3(f)(4)(c) provides that "[i]f cases are ordered related,
5 they will be assigned to the department where the case with the lowest case number has been
6 assigned, *unless the Court, for good cause, determines otherwise.*" (Emphasis added.) The
7 Conservancy Case number (BS 063275) is one digit lower than the Commission Case number (BS
8 063276). However, if the Court determines that the cases should be related, good cause exists to
9 assign the cases to Department 86, where the Commission Case has been assigned, rather than to
10 Department 85, where the Conservancy Case is pending. In the Commission Case, the 56 volume
11 Administrative Record has already been finalized and lodged with the Court. The Commission Case
12 has been fully briefed, and the Court has already reviewed the lengthy Administrative Record and
13 held a hearing on the merits of the case. In contrast, the Administrative Record has not been
14 finalized nor lodged in the Conservancy Case, nor has the matter been briefed. Instead, the Court in
15 the Conservancy Case has continued the Status Conference until the Court in Department 86 has
16 ruled in the Commission Case. In the interest of judicial economy, if the cases are related, the
17 Conservancy Case should be assigned to Department 86.

18
19 IV. CONCLUSION

20 Petitioners respectfully request that the Court rule that the Notice of Related Case is
21 untimely. In the alternative, if the Commission and Conservancy Cases are related, Petitioners
22 respectfully request that both cases be assigned to Department 86.

23
24 Dated: April 19, 2001

Patricia L. Glaser
Clare Bronowski
Elizabeth J. Giffin
CHRISTENSEN, MILLER, FINK, JACOBS,
GLASER, WEIL & SHAPIRO, LLP

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28 
By: CLARE BRONOWSKI
Attorneys for Petitioners

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA
3 COUNTY OF LOS ANGELES

4 I am employed in the County of Los Angeles, State of California; I am over the age of 18 and
5 not a party to the within action; my business address is 2121 Avenue of the Stars, Eighteenth Floor,
6 Los Angeles, California 90067.

7 On April 19, 2001, I served the foregoing document(s) described as:

8 *PETITIONERS' RESPONSE OPPOSING NOTICE OF RELATED CASE*

9 on the interested parties to this action by placing a copy thereof enclosed in a sealed envelope
10 addressed as follows:

11 (BY MAIL) I am readily familiar with the business practice for collection and
12 processing of correspondence for mailing with the United States Postal Service. This
13 correspondence shall be deposited with the United States Postal Service this same day
14 in the ordinary course of business at our Firm's office address in Los Angeles,
15 California. Service made pursuant to this paragraph, upon motion of a party served,
16 shall be presumed invalid if the postal cancellation date of postage meter date on the
17 envelope is more than one day after the date of deposit for mailing contained in this
18 affidavit.

19 X (BY FACSIMILE) I caused such documents to be delivered via facsimile to the
20 offices of the addressees at the following facsimile numbers:

21 By Facsimile (213) 897-2801
22 Nedra Austin
23 DEPUTY ATTORNEY GENERAL
24 300 S. Spring Street, Suite 5212
25 Los Angeles, CA 90013

26 By Facsimile (310) 772-6635
27 Andrew Cushnir, Esq.
28 Broad Revocable Trust
Sun America
1999 Avenue of the Stars, 37th Floor
Los Angeles, CA 90067

By Facsimile (510) 622-2270
Patricia Peterson
Deputy Attorney General
Department of Justice
1515 Clay Street, 20th Floor
Oakland, CA 94612

Executed this 19th day of April, 2001, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is
true and correct.


MAUREEN M. CARROLL

LAW OFFICES
CHRISTENSEN, MILLER, FINK, JACOBS, GLASER, WEIL & SHAPIRO
2121 AVENUE OF THE STARS
EIGHTEENTH FLOOR
LOS ANGELES, CALIFORNIA 90067
(213) 556-2920